

AO 133

(Rev. 8/06) Bill of Costs

UNITED STATES DISTRICT COURT

Eastern

District of

New York

ALBERT MAJORS IV,

BILL OF COSTS

V.

THE CITY OF NEW YORK, ET AL.,

Case Number: 10 CV 4730 (BMC)

Judgment having been entered in the above entitled action on 6/22/2011 against ALBERT MAJORS IV,
 the Clerk is requested to tax the following as costs:

Fees of the Clerk	\$
Fees for service of summons and subpoena
Fees of the court reporter for all or any part of the transcript necessarily obtained for use in the case	2,545.74
Fees and disbursements for printing	69.44
Fees for witnesses (itemize on page two)	0.00
Fees for exemplification and copies of papers necessarily obtained for use in the case
Docket fees under 28 U.S.C. 1923	20.00
Costs as shown on Mandate of Court of Appeals
Compensation of court-appointed experts
Compensation of interpreters and costs of special interpretation services under 28 U.S.C. 1828
Other costs (please itemize)	2,637.15
TOTAL	\$ 5,272.33

SPECIAL NOTE: Attach to your bill an itemization and documentation for requested costs in all categories.

DECLARATION

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this bill has been served on all parties in the following manner:

- ☐ Electronic service by e-mail as set forth below and/or.
☐ Conventional service by first class mail, postage prepaid as set forth below.

s/ Attorney:

Name of Attorney:

Sumit Sud, Assistant Corporation Counsel

For: The City of New York

Name of Claiming Party

Date:

July 20 2011

Costs are taxed in the amount of _____ and included in the judgment.

Clerk of Court

By:

Deputy Clerk

Date

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
ALBERT MAJORS IV,

Plaintiff(s),

-against-

CITY OF NEW YORK, ROBERT PUMILIA SHIELD NO.
10574, BRIAN RODER, SHIELD NO. 27358, and JOHN
and JANE DOE 2 through 10, individually and in their
official capacities (the names John and Jane Doe being
fictitious, as the true names are presently unknown),
Defendant(s).

10 CV 4730 (BMC)

**NOTICE OF APPLICATION
FOR COSTS**

-----X
PLEASE TAKE NOTICE that, upon defendants' bill of costs, the declaration of

SUMIT SUD, Assistant Corporation Counsel , dated July 20, 2011 and exhibit annexed thereto, and all other pleadings and proceedings herein, defendants will move this Court before the Judgment Clerk, at the United States Courthouse, for the Eastern District of New York, located at Cadman Plaza East Brooklyn, NY 10 a.m. on August 3, 2011, or as soon thereafter as counsel may be heard for an order pursuant to Rule 54 of the Federal Rules of Civil Procedure and 28 U.S.C. 1921 granting fees and costs sought by defendants and granting such relief as to this Court deems proper.

Dated: New York, New York
July 20, 2011

MICHAEL A. CARDOZO

Corporation Counsel of the City of New York
Attorney for Defendant
100 Church Street New York, NY 10007
(212) 788-1096


By:  **SUMIT SUD**
ASSISTANT CORPORATION COUNSEL

To: **AFSAAN SALEEM, ESQ.**
Attorney for plaintiff
HARVIS and SALEEM, LLP
305 BROADWAY, 14th FLOOR
NEW YORK, NY 10007

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK, COUNTY OF NEW YORK, SS.:

I, Valery Dekhman, being duly sworn, deposes and says that on July 20, 2011, I served copies of the Bill of Costs; Notice of Application for Costs Sought Against Plaintiff; the Judgment; Declaration of Sumit Sud in Support of Defendants' Motion for Costs pursuant to Fed. R. Civ. P. 54, 7 Invoices; 5 Transcripts upon AFSAAN SALEEM, ESQ., the attorney for the Plaintiff ALBERT MAJORS IV, by depositing copies of same, enclosed in a postpaid properly addressed envelope, in a post office box/official depository under exclusive care and custody of the United States Postal Service, located at 100 Church Street, New York, New York 10007, directed to said Attorney at HARVIS and SALEEM, LLP, 305 BROADWAY, 14th FLOOR, NEW YORK, NY 10007



VALERY DEKHMAN

Sworn to before me this

20th day of July, 2011

NOTARY PUBLIC

MICHAEL J. MAY
Notary Public, State of New York
No. 24-4994296
Qualified in Kings County
Commission Expires March 30, 2014



AO 450 (Rev. 01/09) Judgment in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JUN 22 2011 ★

BROOKLYN OFFICE

ALBERT MAJORS, IV

Plaintiff

v.

POLICE OFFICER ROBERT PUMILIA

Defendant

Civil Action No. 10 Civ 4730 (BMC)

JUDGMENT IN A CIVIL ACTION

The court has ordered that (check one):

☐ the plaintiff (name) _____ recover from the
defendant (name) _____ the amount of
_____ dollars (\$ _____), which includes prejudgment
interest at the rate of _____ %, plus postjudgment interest at the rate of _____ %, along with costs.

☒ the plaintiff recover nothing, the action be dismissed on the merits, and the defendant (name) _____
recover costs from the plaintiff (name) _____

☐ other:

This action was (check one):

☒ tried by a jury with Judge BRIAN M. COGAN _____ presiding, and the jury has
rendered a verdict.

☐ tried by Judge _____ without a jury and the above decision
was reached.

☐ decided by Judge _____ on a motion for

Date: 06/22/2011

CLERK OF COURT


Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
ALBERT MAJORS IV,

Plaintiff,

-against-

CITY OF NEW YORK, ROBERT PUMILIA SHIELD
NO. 10574, BRIAN RODER, SHIELD NO. 27358, and
JOHN and JANE DOE 2 through 10, individually and in
their official capacities (the names John and Jane Doe
being fictitious, as the true names are presently unknown),

Defendants.
----- X

**DECLARATION OF SUMIT
SUD IN SUPPORT OF
DEFENDANTS' MOTION
FOR COSTS PURSUANT TO
FED. R. CIV. P. 54**

10 CV 4730 (BMC)

SUMIT SUD declares pursuant to 28 U.S.C. § 1746, under penalty of perjury,
that the following is true and correct:

1. I am an attorney in the office of Michael A. Cardozo, Corporation Counsel of the
City of New York, attorney for defendants City of New York, Police Officer Robert Pumilia and
Police Officer Brian Roder. As such I am familiar with the facts set forth below.

2. This declaration is submitted in support of defendants' motion for costs pursuant
to FED. R. CIV. P. 54, Local Rule 54.1 and 28 U.S.C. §§ 1821, 1920, 1923 and 1924.

3. On October 15, 2010, plaintiff filed the instant action pursuant to 42 U.S.C. §
1983 alleging, inter alia, federal claims of false arrest, and failure to intervene against Police
Officer Robert Pumilia and Police Officer Brian Roder. In addition, plaintiff alleged a claim of
municipal liability against the City of New York, pursuant to Monell v. City of N.Y. Dep't of
Social Servs., 436 U.S. 658 (1978).

4. During discovery, defendants incurred costs totaling \$2,028.25 as follows:
\$957.25 to take the deposition of plaintiff Albert Majors on January 27, 2011 and \$1,071.00 for

the deposition of Robert Pumilia on January 31, 2011. A copy of the related invoices is annexed as Exhibit "A."

5. The transcript of the depositions of plaintiff Albert Majors and Robert Pumilia, were used at trial and are therefore taxable pursuant to Local Rule 54.1(c)(2).

6. During plaintiff's deposition, which was conducted on January 27, 2011, plaintiff stated that he was not seeking any lost wages and/or income damages as a result of the incident which was the subject of his lawsuit. (See Deposition of Albert Majors, January 27, 2011, 36:1-12, annexed hereto as Exhibit "B").

7. Despite plaintiff's own sworn testimony, plaintiff's counsel thereafter asserted a claim for lost wages. (See Transcript of Status Conference, February 2, 2011, 31:13-19, annexed hereto as Exhibit "C").

8. Discovery was then re-opened to allow defendants the opportunity to conduct the deposition of a representative of the Federation of Multicultural Programs (hereinafter, "FMCP"), plaintiff's former employer. (See Id. 35:6-8).

9. On February 3, 2007, plaintiff's counsel identified Richard Swinson as a representative of FMCP. Defendants attempted to depose Mr. Swinson on March 18, 2011 pursuant to subpoena. Mr. Swinson failed to appear. Thereafter, plaintiff's counsel identified another representative of the FMCP, Valerie Zimmerman.

10. Ms. Zimmerman was deposed on April 14, 2011 pursuant to subpoena. Defendants incurred costs totaling \$530.90 in connection with this deposition. (See Copy of Invoice, annexed as Exhibit "D").

11. The transcript of the deposition of Ms. Zimmerman, was used at trial and is therefore taxable pursuant to Local Rule 54.1(c)(2).

12. Plaintiff's counsel then identified a third representative of FMCP, Beatrice Gonzalez on April 15, 2011, in plaintiff's witness list in the Joint Pre-Trial Order.

13. On April 22, 2011, defendants moved to preclude Valerie Zimmerman from testifying at trial, based on her lack of personnel knowledge and on hearsay grounds. The Court granted such motion. (See Transcript of Oral Argument, April 22, 2011, 50-51:20-5, annexed hereto as Exhibit "E").

14. Further, on April 22, 2011, defendants were granted leave to conduct the deposition of Beatrice Gonzalez. (Id.).

15. Defendants attempted to depose Beatrice Gonzalez on June 9, 2011 pursuant to subpoena. Mr. Gonzalez failed to appear. Defendants incurred costs totaling \$78.00 in connection with our efforts to depose Ms. Gonzalez. (Copy of Invoice annexed as Exhibit "F").

16. On June 16, 2011, a Court conference was held so that Ms. Gonzalez could show cause as to why she did not appear for her June 9, 2011 deposition. The Court found Beatrice Gonzalez to be in civil contempt and precluded her from testifying at trial. The Court, however, reserved on the question of whether Valerie Zimmerman would be able to testify at trial. (See, Transcript Of Order to Show Cause, June 16, 2011, 22:9-11, annexed hereto as Exhibit "G").

17. On June 20, 2011, a jury trial commenced before the Honorable Brian M. Cogan, United States District Judge.

18. After jury selection was completed, the Court allowed Valerie Zimmerman to testify on the condition that a proper foundation could be laid by plaintiff. In response, plaintiff voluntarily withdrew his lost wages claim. (See Trial Transcript, June 20, 2011 6:3-4, annexed hereto as Exhibit "H").

19. The costs associated with plaintiff's lost wages claim, were necessary to defend against plaintiff's claim at trial prior to their dismissal and are therefore taxable pursuant to Local Rule 54.1(c)(2).

20. During the trial of this action, defendants incurred additional costs totaling \$2545.74 as follows: (1) \$76.38 for a transcript of the May 26, 2011 final pretrial conference; and (2) \$2,469.36 for the transcript of the trial proceedings. Copies of the related invoices are annexed hereto as Exhibit "I."

21. These transcripts were used during the trial to assist with the preparation of defendants' case, including preparing cross-examinations, defendants' closing argument, and defendants' motion pursuant to FED. R. CIV. P. 50(a) and Local Rule 54.1(c)(1).

22. On June 22, 2011, the Court granted defendants' motion pursuant to FED. R. CIV. P. 50(a), in part, and dismissed all claims against defendant Police Officer Brian Roder. (See Trial Transcript, June 22, 2011, 221:88-18).

23. On June 22, 2011, the jury returned a verdict in favor of the only remaining defendant, Police Officer Robert Pumilia, on all claims. (See Trial Transcript, June 22, 2011, 300, annexed as Exhibit "J"; see also, Judgment, dated June 22, 2011).

24. Further, defendants are entitled to an additional \$20.00 pursuant to 28 U.S.C. § 1923.

25. In addition, defendants are entitled to \$69.44 in printing costs, pursuant to Fed. R. Civ. Pro. 50(a) and Local Rule 54.1.

26. Thus, the total costs pursuant to Local Rule 54.1 incurred by defendants in the defense of this action total \$5,272.33.

27. The aforementioned costs are allowable by law, are correctly stated and were necessarily incurred pursuant to Local Rule 54.1.

Dated: New York, New York
July 20, 2011



SUMIT SUD
Assistant Corporation Counsel

NO. 00182



The
City of
New York

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Attorney Signature

Division:

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By Demetra Charidemou at 10:12 am, Jun 03, 2011



Demetra Charidemou

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Official Court Reporter
U.S. District Court
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2010-040952

ATT: DEMETRA CHARIDEMOU (SF)
Assistant Corporation Counsel.

RE: MAJORS CITY OF NEW YORK

BEFORE THE HON. BRIAN M. COGAN

VOUCHERED
DATE: 6/6/11

DATES TAKEN: May 26, 2011
16 Pages + 3 Word Index Pages

INV. AMT. PAID: \$ 76.38
19 pages @ \$4.02 per page.....\$76.38

V# 20110005948

INV. # 11-MAJORS Total Amount Due: \$76.38

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Thank you.

HENRY SHAPIRO

OFFICIAL COURT REPORTER

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06/21/2011

Albert Majors ~~NY v. City of New York, 10 cv 1730(DMC)~~

APPROVED

By Sumit Sud at 3:12 pm, Jul 06, 2011

TOTAL CHARGES

TOTAL	2,469.36
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LESS DISCOUNT FOR LATE DELIVERY	0.00
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ADD AMOUNT OF DEPOSIT:

ADD AMOUNT OF DEPOSIT:

AMOUNT DUE (OR REFUND)	2,469.36
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Full price may be charged only if the transcript is delivered within the required time frame. For example, if an order for expedited transcript is not completed and delivered within 7 calendar days, payment would be at the 14-day *delivery* rate, and if not completed and delivered within 14 days, payment would be at the ordinary *delivery* rate.

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I certify that the transcript fees charged and page number used comply with the requirements of this court and the Judicial Conference of the States.

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Lisa Schmid

DATE:

~~07/01/2011~~

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SUMIT SUD, ESQ.

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INVOICE DATE: 4/18/2011

REPORTER:

EPHRAIM JACOBSON

MAJORS, ALBERT IV VS CITY OF NEW YORK, ROBERT

PUMILLA, SHIELD NO. 10574, BRIAN RODER, SHIELD NO.

27358 AND JOHN AND JANE DOES 1-10

INDEX NO: CV-10-4730(BMC)

FILE NO:

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TAX ID #: 11-286-5545

BILLER ID: NR

By Sumit Sud at 10:16 am, Apr 20, 2011

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BALANCE DUE

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INV. AMT. PAID: \$ 540.80

V# 11-5338

INV. # 11041411301

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New York City Law Dept/Fiscal Section

100 Church St Rm 5B3

New York, NY 10007

200 Old Country Road, Suite 580
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REF. DOC.

Invoice #: NY374705
Invoice Date: 02/07/2011
Balance Due: \$1,071.00

Case: Majors, Albert IV v. City of New York
Job #: 298651 | **Job Date:** 1/31/2011 | **Delivery:** Expedited
Billing Atty: Sumit Sud Esq
Location: Harvis & Saleem, LLP
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2010-040952

Item	Witness	Description	Units	Qty	Price	Amount
1	Robert Pumilla	Certified Transcript	Page	357.00	\$1.50	\$535.50
2		Fee For Expedited Service	Per page	357.00	\$1.50	\$535.50
3		Shipping & handling	Package	1.00	\$0.00	\$0.00
Notes:				Invoice Total: \$1,071.00		
				Payment:		
				Credits:		
				Interest: \$0.00		
				Balance Due: \$1,071.00		
Fed. Tax ID: 20-3132569		Term: Net 30				
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By Sumit Sud at 4:49 pm, May 23, 2011

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Job #: 298651

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Balance: \$1,071.00

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JOHN AND JANE DOES 2 - 10
INDEX NO: 10CV4730 FILE NO: 2010-040952 *SF*

DATE	DESCRIPTION	AMOUNT
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1/27/2011

EXAM. BEFORE TRIAL OF THE PLF.,
ALBERT MAJORS IV 231PGS+24W.I. = 255PGS
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ATTORNEY: LEO DORFMAN, ESQ.

APPROVED

By Sumit Sud at 3:48 pm, Mar 31, 2011

SUB TOTAL

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BALANCE DUE

982.75
\$0.00

\$982.75

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SUMIT SUD, ESQ.

INVOICE NO.: 11060900201
INVOICE DATE: 6/10/2011

REPORTER:
KEN KRINSKY

TAX ID #: 11-266-5545

BILLER ID: BZ

MAJORS, ALBERT IV VS CITY OF NEW YORK, ROBERT
PUMILIA, SHIELD #: 10574, BRIAN RODER, SHIELD #: 27385,
JOHN AND JANE DOES 2 - 10
INDEX NO: 10CV4730 FILE NO: 2010-040952 *SF*

2011 JUN 27 PM

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BALANCE DUE \$78.00

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By Sumit Sud at 1:15 pm, Jun 16, 2011

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INV. AMT. PAID: \$ 78.00

V# 11-6394

INV. # 11060900201

SVS. PERIOD 06/09/11 TO 06/09/11

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2011 JUN 15 PM 12:12

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK
3 -----X
4 ALBERT MAJORS IV,

5 PLAINTIFF,

6 -against- Case No.:
7 10CV4730

8 CITY OF NEW YORK, ROBERT PUMILIA, SHIELD
9 #10574, BRIAN RODER SHIELD #27385, and
10 JOHN and JANE DOES 2 through 10, individually
11 and in their official capacities (the names
12 John and Jane Doe being fictitious, as the
13 true names are presently unknown),

14 DEFENDANTS.
15 -----X

16 DATE: January 27, 2011

17 TIME: 11:39 a.m.

18 EXAMINATION BEFORE TRIAL of
19 the Plaintiff, ALBERT MAJORS IV, taken by the
20 Defendants, pursuant to a Notice and to the
21 Federal Rules of Civil Procedure, held at the
22 offices of Harvis & Saleem, LLP, 305 Broadway,
23 14th Floor, New York, New York 10007, before
24 KIYOKO Y. PANZELLA, a Notary Public of the
25 State of New York.

A. MAJORS IV

- 1 Q. Are you claiming that you lost any wages or
2 earnings as a result of your June 19 arrest?
- 3 A. No --
- 4 Say that again? Say that again? Rephrase it.
- 5 Q. You want me to rephrase it?
- 6 A. Yes, please.
- 7 Q. In this lawsuit, are you looking for New York
8 City to compensate you for any loss of earnings or wages
9 that you claim --
- 10 A. After the June 19 arrest?
- 11 Q. Yes.
- 12 A. No.
- 13 Q. So you're not claiming that you lost any sort of
14 wages or money from an employer as a result of that arrest?
- 15 A. Yes.
- 16 Q. Yes, you are not claiming that?
- 17 A. Yes, I'm not claiming that.
- 18 Q. What is the name of the last person you spoke to
19 at the Federation of Multi-Cultural Programs?
- 20 A. The last person I spoke to? I would say it was
21 my manager. His name is Jerry Mar Foster.
- 22 Q. Can you say that again?
- 23 A. Jerry Mar.
- 24 Q. Jerry is the first name?
- 25 A. M-A-R is the middle name, Foster.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
:
MAJORS, 10CV 4730
Plaintiff,
-against- :
United States Courthouse
Brooklyn, New York
CITY OF NEW YORK, et al,
Defendants. :
February 2, 2011
----- X 4:30 o'clock p.m.

TRANSCRIPT OF STATUS CONFERENCE
BEFORE THE HONORABLE BRIAN M. COGAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: HARVIS & SALEEM, LLP
305 Broadway
New York, N. Y. 10007
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For the Defendant: SOKOLOFF STERN, LLP
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Westbury, N. Y. 11590
BY: LEO DORFMAN, ESQ.

THE CITY OF NEW YORK
LAW DEPARTMENT
100 Church Street
New York, N. Y. 10007

BY: SUMIT SUD
Assistant Corporation Counsel

Court Reporter: Henry R. Shapiro
225 Cadman Plaza East
Brooklyn, New York
718-613-2509

HENRY SHAPIRO

OFFICIAL COURT REPORTER

1 MR. SALEEM: Also just the fact we're here already
2 at this point--

3 THE COURT: Don't get greedy.

4 Let's see if these people exist. If they check the
5 memo books and it turns out your client made a mistake, I'm
6 not saying you are walking away scot free either.

7 MR. SALEEM: Okay.

8 I'm confident there will be other officers
9 uncovered.

10 THE COURT: Then you have nothing to worry about.
11 What else?

12 MR. SALEEM: Initially, I didn't bring a claim for
13 lost wages, because we thought that our client, as you note
14 there was an arrest in April and we thought as a result of
15 that our client's job, he lost his job as a result of that,
16 and it turned out he was laid off pending the disposition of
17 that and he was about to actually resume his job, pending the
18 report that came back, unfortunately when this arrest occurred
19 it prevented him from going back to work.

20 He testified at his deposition he's not making claim
21 for lose wages --

22 THE COURT: There is so much fee switching it will
23 neutralize it, everyone else is going for attorney fees, it
24 won't make any difference.

25 MR. SALEEM: Mr. Dorfman conducted an extensive

1 MR. DORFMAN: We don't have the transcript yet.

2 MR. SALEEM: They ordered an expedited copy, which
3 they should be getting.

4 MR. SUD: That was for Officer Pumilia.

5 MR. SALEEM: My fault.

6 THE COURT: Call your client and ask what the guy's
7 name is. We're going to have that by the end of the week, his
8 deposition within two weeks after that.

9 What else?

10 MR. DORFMAN: I think, your Honor that based on
11 plaintiff's own testimony we might have a motion for summary
12 judgment.

13 THE COURT: Seriously.

14 MR. DORFMAN: Yes, your Honor. It seems to me
15 plaintiff had every opportunity to establish his legal -- his
16 lawful purpose in the building. He testified that the
17 officers, these government officers, the new ones, he
18 testified that they asked him whether he lived in the
19 building, he said that he didn't.

20 They asked him what he was doing in the building and
21 he said he had friends in the building, but didn't say he was
22 visiting anyone and didn't identify the person who he claims
23 he was visiting, even though he was standing right next to the
24 person's door.

25 The officers think he had been part of the group

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 MAJORS,

Plaintiff,

4 versus

10 CV 4730

5 CITY OF NEW YORK, ET AL.,
6 Defendant.

United States Courthouse
Brooklyn, New York

7 April 22, 2011
8 2:15 p.m.

9 TRANSCRIPT OF ORAL ARGUMENT

10 Before: HON. BRIAN M. COGAN, District Judge

11 APPEARANCES

12 Attorneys for Plaintiff:

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14 305 Broadway
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25 Proceedings recorded by mechanical stenography, transcript
produced by computer.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

1 Zimmerman was designated by her employer to testify
2 on their behalf.

3 THE COURT: A 30(b)(6) essentially?

4 MR. SALEEM: Essentially.

5 She is not a party, but she was designated --
6 initially, as your Honor may recall, we initially thought
7 Mr. Swenson was the person and plaintiff, defendants
8 subpoenaed him. He didn't show. My investigation revealed
9 that -- I contacted them, the FMCP and Miss Zimmerman says
10 that she was a person who could testify with knowledge. She
11 was part of those conversations as to Mr. Majors being hired.
12 She was designated by her employer to speak on their behalf.

13 THE COURT: That doesn't cure the hearsay problem
14 but you are saying that you got late notice that Gonzalez was
15 the right person when you took Zimmerman's deposition.

16 MR. SALEEM: Right, City was the one who took that
17 deposition. They were the ones who raised the issue of
18 Miss Gonzalez and if they don't believe Miss Zimmerman to be
19 the right person, they said they would call Miss Gonzalez.

20 THE COURT: I don't see a way that Miss Zimmerman
21 can testify to conclusions about whether the plaintiff would
22 have been rehired. She does not appear to have personal
23 knowledge or anything like it.

24 She has hearsay knowledge which is inadmissible and
25 does not permit her to form a conclusion.

1 So if there is anyone who is going to testify to
2 this, it seems it's Gonzalez.

3 Now that I have put off the trial for a few weeks,
4 there is plenty of time to take her deposition. So let's go
5 ahead and do that.

6 Anything else?

7 MR. SUD: One final thing.

8 MR. DePAUL: One final motion for defendants.

9 We are going to move to preclude the testimony of
10 plaintiff's friend Isaiah Stewart. He has no knowledge of the
11 events that happened in the hallway as plaintiff was being
12 arrested. The only possible testimony that he can provide is
13 that Mr. Majors was visiting him at the time of the arrest.

14 We believe that to be violative of 403 because it's
15 going to confuse the issues for the jury. They are going to
16 decide there was no probable cause because plaintiff was in
17 fact, according to Mr. Stewart, visiting Mr. Stewart. That is
18 not the question we need to ask. The question is whether or
19 not the officers knew he was visiting Mr. Stewart at the time.

20 So any knowledge that he would have of the events in
21 the hallway would be hearsay with no exception. So we'd ask
22 to exclude his testimony.

23 THE COURT: That sounds right.

24 MR. SALEEM: We are not offering him to elicit
25 hearsay, we are offering him to say that he entered the

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
ALBERT MAJORS IV, : 10-CV-4730(BMC)
Plaintiff, :
-against- : United States Courthouse
 : Brooklyn, New York
 :
 :
CITY OF NEW YORK, ET AL, : Thursday, June 16, 2011
 : 11:00 a.m.
Defendant. :
----- X

TRANSCRIPT OF CIVIL CAUSE FOR ORDER TO SHOW CAUSE
BEFORE THE HONORABLE BRIAN M. COGAN
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

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PHILLIP R. DEPAUL, ESQ.
CAROLYN DEPOIAN, ESQ.

Order to Show Cause

22

1 Albany.

2 THE COURT: I need to see or hear again the
3 testimony of Ms. Zimmerman on why they made him go to
4 Albany. Find that and hand it to my clerk and let me look
5 at it.

6 (A brief pause in the proceedings was held.)

7 THE COURT: Well, I appreciate everyone.

8 MR. SALEEM: Your Honor, we have Page 31 to 33.

9 THE COURT: I want to think about it more. I
10 might hold a hearing out of the jury's hearing with
11 Ms. Zimmerman or when she's here on Monday.

12 MR. SALEEM: I need to subpoena her now, to send
13 her a trial subpoena.

14 THE COURT: Send her a subpoena and have her come.
15 Submit the transcript to my clerk and I will read it over
16 and think about it and I'll probably issue a ruling today on
17 whether you need her.

18 Also, you were supposed to be, before the
19 last scheduled trial date, get me jury instructions by now.
20 I didn't expressly carry the date forward but they would
21 have been by that time and you didn't submit them. Can I
22 please have those Monday morning.

23 MR. SALEEM: Yes, your Honor.

24 MR. SUD: Yes, your Honor.

25 THE COURT: Okay. Anything else we need to cover?

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF NEW YORK

3 -----x
ALBERT MAJORS, IV,
4 PLAINTIFF

5 versus

10 CV 4730 (BMC)

6 CITY OF NEW YORK, ET AL,

7 DEFENDANTS.

U.S. Courthouse
Brooklyn, New York

8 -----x
June 20, 2011

9
10
11 TRANSCRIPT OF CIVIL CAUSE FOR JURY TRIAL

12 Before THE HONORABLE BRIAN M. COGAN,

13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES

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25 Proceedings recorded by mechanical stenography. Transcript
produced by computer-aided transcription.

LISA SCHMID, CCR, RMR

1 You're going to go first, so you're going to decide
2 what you want to what you want to ask.

3 MR. SALEEM: Your Honor, in that case, Your Honor,
4 we're going withdraw the lost wages claim.

5 THE COURT: So you're letting Ms. Zimmerman go home?

6 MR. SALEEM: Yes. And then we're going to make sure
7 there will be no -- because we're withdrawing that, there is
8 going to be no testimony or mention of the April arrest.

9 THE COURT: That seems right.

10 MR. SALEEM: In opening statements or --

11 MR. SUD: Your Honor, we would agree with that. We
12 would just note for the Court the absolute time that has been
13 wasted over the course of this litigation --

14 THE COURT: Yes.

15 MR. SUD: -- by this claim.

16 THE COURT: If you prevail and costs are awarded,
17 perhaps they'll be extra costs because of the amount of time
18 spent over that issue.

19 MR. SUD: That you, Your Honor.

20 THE COURT: Mr. Saleem, you could have figured out
21 where this was going earlier than that.

22 MR. SALEEM: No, I don't think we could, Your Honor.

23 THE COURT: All right. That's for later, anyway.

24 MR. SALEEM: Can I tell Ms. Zimmerman that she's
25 free to go?

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF NEW YORK

3 -----X
ALBERT MAJORS, IV,
4 PLAINTIFF

5 versus

10 CV 4730 (BMC)

6 CITY OF NEW YORK, ET AL, .

7 DEFENDANTS.

U.S. Courthouse
Brooklyn, New York

8 -----X
June 22, 2011

9
10
11 TRANSCRIPT OF CIVIL CAUSE FOR JURY TRIAL

12 Before THE HONORABLE BRIAN M. COGAN,

13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES

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LISA SCHMID, CCR, RMR

PROCEEDINGS

1 Ms. Bedoya, we have your note announcing that you've
2 reached a unanimous verdict. Is that, in fact, correct, that
3 the jury has reached a unanimous verdict on which all have you
4 agree?

5 FOREPERSON: Yes.

6 THE COURT: Please hand the form to Ms. Clark.

7 FOREPERSON: (Complies.)

8 THE COURT: Jane. (Confers with the law clerk.)

9 All right. Ladies and gentlemen, listen carefully.
10 I'm about to read your verdict out loud. The reason you have
11 to listen particularly carefully is because either side has
12 the right to poll you individually, that is, I would ask each
13 one of you individually if this represents your true and
14 accurate verdict. So please listen as I read it.

15 As to the first question, was there probable cause
16 for plaintiff's arrest? The jury checked yes, and therefore,
17 did not complete any of the other questions based on that.
18 The verdict form is signed by Ms. Bedoja as foreperson.

19 Any party want me to poll the jury?

20 MR. HARVIS: No, Your Honor.

21 MR. SUD: No, Your Honor.

22 THE COURT: All right. Would either side like to
23 interview the jury, if they are willing to do that after
24 trial?

25 MR. SUD: Yes, Your Honor.

LISA SCHMID, CCR, RMR